



Amendment No. 13  
to  
NS120000024  
for  
Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between  
Calytera US, Inc. (Contractor)  
and the  
City of Austin

1.0 The above referenced contract is amended as follows:

Extend the contract through 02/07/2022.

Revise the Compensation Section to increase the total not to exceed to \$3,592,968.33. This is an increase of \$400,000.00.

Add an optional six-month extension in the amount of \$200,000, to be exercised from 02/08/2022 to 08/07/2022.

2.0 The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/08/13 – 02/07/14	\$595,359.00	\$595,359.00
Amendment No. 1: Option 1 02/08/13 – 02/07/14	\$457,270.00	\$1,052,629.00
Amendment No. 2: Deletion of Section 3.5 8/14/13	\$0.00	\$1,052,629.00
Amendment No. 3: Option 2 02/08/14 – 02/07/15	\$485,102.00	\$1,537,731.00
Amendment No. 4: Option 3 02/08/15 – 02/07/16	\$512,711.00	\$2,050,442.00
Amendment No. 5: Option 4 02/08/16 – 02/07/17	\$540,554.00	\$2,590,996.00
Amendment No. 6: Option 5 02/08/17 – 02/07/18	\$568,639.00	\$3,159,635.00
Amendment No. 7: Name Change	\$0.00	\$3,159,635.00
Amendment No. 8: Extension (NTE \$400,000/YEAR) 02/08/18 – 02/07/20	\$0.00	\$3,159,635.00
Amendment No. 9: Vendor name change	\$0.00	\$3,159,635.00
Amendment No. 10: Extension 02/08/20 – 01/07/21	\$0.00	\$3,159,635.00
Amendment No. 11: Revised Extension 02/08/20 – 02/07/21	\$0.00	\$3,159,635.00
Amendment No. 12: Administrative increase	\$33,334.00	\$3,192,969.00
Amendment No. 13: Extension 02/08/21 – 02/07/22	\$400,000.00	\$3,592,969.00

3.0 MBE/WBE goals were not established for this contract.

4.0 By signing this amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas or the City of Austin.

5.0 All other terms and conditions remain the same.

By the signature affixed below, this amendment is hereby incorporated into and made a part of the above referenced contract.

**Authorized Representative:**

Contractor Signature: Will Promecene

Printed Name: William Promecene

Date: 12/14/2020

Calytera, Inc.  
804 Las Cimas Parkway, Suite 100  
Austin, TX 78746

Sai Xoomsai  
Purcell

Digitally signed by Sai  
Xoomsai Purcell  
Date: 2021.02.04 14:58:51  
-06'00'

Signature: \_\_\_\_\_

City of Austin Purchasing Office

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

City of Austin  
124 W. 8<sup>th</sup> St., Ste. 310  
Austin, TX 78701



## City of Austin

### Courts and Justice – Maintenance and Support

Prepared by Calytera US, Inc. for the:

**City of Austin**

**Contact:**

Marilyn Fletcher  
1-888-661-1933 Ext. 121  
[m.fletcher@calytera.com](mailto:m.fletcher@calytera.com)

December 10, 2020

Luz Lozano  
Information Systems and Business Enterprise Mgr.  
City of Austin  
700 E. Seventh Street  
Austin, TX 78701

Dear Luz:

**RE: Quotation for Maintenance and Support – Quotation No. 2020-1211**

Calytera US, Inc., is pleased to submit this quotation to the City of Austin in response to your requirements for renewing Maintenance and Support for an additional year, representing the period: February 8, 2021 – February 7, 2022.

Thank you for the opportunity to submit this quotation. We look forward to our continued partnership with the City of Austin. Please feel free to contact me at: (888) 661-1933 x121 (office), or by email at [m.fletcher@calytera.com](mailto:m.fletcher@calytera.com) for any questions regarding this quotation.

Sincerely,

DocuSigned by:  
  
9F6B59C166E24CD..

Marilyn Fletcher  
Finance and Admin.  
Calytera US, Inc.

## 1.0 Quotation

Calytera US, Inc. is pleased to provide the City of Austin the following renewal of Maintenance and Support for an additional year at the following quoted price:

Description	Unit Price	Quantity	Total	1 Year Maintenance and Support
Maintenance and Support for the Period: Feb 8, 2021 – Feb 7, 2022			\$400,000.00	\$400,000.00
(213) JEMS User Licenses				
(48) IVR (billing for 4)				
(158) Imaging Licenses				
(28) OPOS Reader				
(67) e-Signature e-Pads				
(2) Camera Licenses				
(177) Stored Signatures				
<b>Total</b>			<b>\$400,000.00</b>	<b>\$400,000.00</b>

## 2.0 Payment Terms

The Client will pay for invoices within 30 days of receipt of a Calytera US, Inc. invoice unless Calytera US, Inc. is notified of an issue within 5 business days of invoice receipt. Interest is charged at 1.5% per month on overdue accounts.

### 2.1 Validity, Currency, and Shipping


The above-provided prices and quotation details are subject to change without notice prior to Calytera US, Inc. receiving a signed quotation. All quoted prices are valid for thirty (30) days from the date of this document.

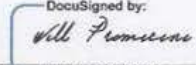
### 3.0 Quotation Approval

Client understands and agrees to the above terms and conditions. Also, by sending a Purchase Order to Calytera US, Inc. Client accepts all terms and conditions outlined in this quotation.

#### City of Austin

#### Calytera US, Inc.

Signature:   
Name: Luz Lozano  
Information Systems  
Business and Enterprise  
Title: Manager  
Date: 12/10/2020

Signature:   
Name: Will Promecene  
Vice President, Operations  
Title: \_\_\_\_\_  
Date: December 10, 2020



Amendment No. 12  
to  
NS120000024  
for  
Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between  
Calytera US, Inc. (Contractor)  
and the  
City of Austin

1.0 The above referenced contract is amended as follows:

The City hereby exercises an administrative increase on the above referenced contract in the amount of \$33,334.00.

2.0 The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/08/13 – 02/07/14	\$595,359.00	\$595,359.00
Amendment No. 1: Option 1 02/08/13 – 02/07/14	\$457,270.00	\$1,052,629.00
Amendment No. 2: Deletion of Section 3.5 8/14/13	\$0.00	\$1,052,629.00
Amendment No. 3: Option 2 02/08/14 – 02/07/15	\$485,102.00	\$1,537,731.00
Amendment No. 4: Option 3 02/08/15 – 02/07/16	\$512,711.00	\$2,050,442.00
Amendment No. 5: Option 4 02/08/16 – 02/07/17	\$540,554.00	\$2,590,996.00
Amendment No. 6: Option 5 02/08/17 – 02/07/18	\$568,639.00	\$3,159,635.00
Amendment No. 7: Name Change	\$0.00	\$3,159,635.00
Amendment No. 8: Extension (NTE \$400,000/YEAR) 02/08/18 – 02/07/20	\$0.00	\$3,159,635.00
Amendment No. 9: Vendor name change	\$0.00	\$3,159,635.00
Amendment No. 10: Extension 02/08/20 – 01/07/21	\$0.00	\$3,159,635.00
Amendment No. 11: Revised Extension 02/08/20 – 02/07/21	\$0.00	\$3,159,635.00
Amendment No. 12: Administrative increase	\$33,334.00	\$3,192,969.00



3.0 MBE/WBE goals were not established for this contract.

4.0 By signing this amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas or the City of Austin.

5.0 All other terms and conditions remain the same.

By the signature affixed below, this amendment is hereby incorporated into and made a part of the above referenced contract.

**Authorized Representative:**

Contractor Signature: Will Promecene

Printed Name: William Promecene

Date: 12/14/2020

Calytera, Inc.  
804 Las Cimas Parkway, Suite 100  
Austin, TX 78746

**Sai Xoomsai  
Purcell**

Digitally signed by  
Sai Xoomsai Purcell  
Date: 2020.12.15  
16:59:01 -06'00'

Signature: \_\_\_\_\_

City of Austin Purchasing Office

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

City of Austin  
124 W. 8<sup>th</sup> St., Ste. 310  
Austin, TX 78701





## City of Austin

### Courts and Justice – Maintenance and Support

Prepared by Calytera US, Inc. for the:

**City of Austin**

**Contact:**

Marilyn Fletcher  
1-888-661-1933 Ext. 121  
m.fletcher@calytera.com

December 10, 2020

Luz Lozano  
Information Systems and Business Enterprise Mgr.  
City of Austin  
700 E. Seventh Street  
Austin, TX 78701

Dear Luz:

**RE: Quotation for Maintenance and Support – Quotation No. 2020-1210**

Calytera US, Inc., is pleased to submit this quotation to the City of Austin in response to your requirements for renewing Maintenance and Support for the period: January 8, 2021 – February 7, 2021.

Thank you for the opportunity to submit this quotation. We look forward to our continued partnership with the City of Austin. Please feel free to contact me at: (888) 661-1933 x121 (office), or by email at [m.fletcher@calytera.com](mailto:m.fletcher@calytera.com) for any questions regarding this quotation.

Sincerely,

DocuSigned by:  
  
9F6B59C166E24CD

Marilyn Fletcher  
Finance and Admin.  
Calytera US, Inc.

## 1.0 Quotation

Calytera US, Inc. is pleased to provide the City of Austin the following renewal of Maintenance and Support for one month at the following quoted price:

Description	Unit Price	Quantity	Total	1 Year Maintenance and Support
Maintenance and Support for the Period: Jan 8, 2021 – Feb 7, 2021			\$33,333.33	\$33,333.33
(213) JEMS User Licenses				
(48) IVR (billing for 4)				
(158) Imaging Licenses				
(28) OPOS Reader				
(67) e-Signature e-Pads				
(2) Camera Licenses				
(177) Stored Signatures				
<b>Total</b>			<b>\$33,333.33</b>	<b>\$33,333.33</b>

## 2.0 Payment Terms

The Client will pay for invoices within 30 days of receipt of a Calytera US, Inc. invoice unless Calytera US, Inc. is notified of an issue within 5 business days of invoice receipt. Interest is charged at 1.5% per month on overdue accounts.

## 2.1 Validity, Currency, and Shipping

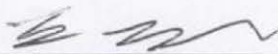
The above-provided prices and quotation details are subject to change without notice prior to Calytera US, Inc. receiving a signed quotation. All quoted prices are valid for thirty (30) days from the date of this document.

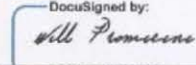
### 3.0 Quotation Approval

Client understands and agrees to the above terms and conditions. Also, by sending a Purchase Order to Calytera US, Inc. Client accepts all terms and conditions outlined in this quotation.

City of Austin

Calytera US, Inc.

Signature:   
Name: Luz Lozano  
Information Systems  
Business and Enterprise  
Title: Manager  
Date: 12/10/2020

Signature:   
Name: Will Promecene  
Vice President, Operations  
Title: \_\_\_\_\_  
Date: December 10, 2020



Amendment No. ~~16~~ 11

to

NS120000024

for

Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between

Calytera US, Inc. (Contractor)

and the

City of Austin

1.0 The City and Contractor hereby authorize this amendment to the current extension option for the subject contract. The term for the extension will be February 8, 2020 to February 7, 2021. No additional authorization is required for this contract.

2.0 MBE/WBE goals were not established for this contract.

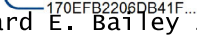
3.0 By signing this amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas or the City of Austin.

4.0 All other terms and conditions remain the same.

By the signature affixed below, this amendment is hereby incorporated into and made a part of the above referenced contract.

**Authorized Representative:**

Contractor Signature:  \_\_\_\_\_

Printed Name:  Richard E. Bailey Jr. \_\_\_\_\_

Date: 11/20/2020 \_\_\_\_\_

Calytera, Inc.  
804 Las Cimas Parkway, Suite 100  
Austin, TX 78746

Sai Xoomsai  
Purcell

Digitally signed by  
Sai Xoomsai Purcell  
Date: 2020.11.24  
09:43:57 -06'00'

Signature: \_\_\_\_\_

City of Austin Purchasing Office

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

City of Austin  
124 W. 8<sup>th</sup> St., Ste. 310  
Austin, TX 78701



Amendment No. ~~15~~ 10

to

NS120000024

for

Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between

Calytera US, Inc. (Contractor)

and the

City of Austin

1.0 The City and Contractor hereby authorize this extension option for the subject contract. The term for the extension will be February 8, 2020 to January 7, 2021. No additional authorization is required for this contract.

2.0 MBE/WBE goals were not established for this contract.

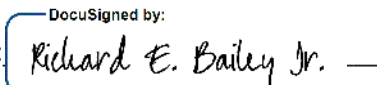
3.0 By signing this amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas or the City of Austin.

4.0 All other terms and conditions remain the same.



By the signature affixed below, this amendment is hereby incorporated into and made a part of the above referenced contract.

**Authorized Representative:**

Contractor Signature:  \_\_\_\_\_  
Printed Name: Richard E. Bailey Jr.

Date: 7/24/2020

Calytera, Inc.  
804 Las Cimas Parkway, Suite 100  
Austin, TX 78746

 \_\_\_\_\_  
City of Austin Purchasing Office  
Printed Name: Gil Zilkha  
Date: July 31, 2020

City of Austin  
124 W. 8<sup>th</sup> St., Ste. 310  
Austin, TX 78701

Digitally signed by Gil Zilkha  
DN: cn=Gil Zilkha, o=City of Austin,  
ou=Purchasing Office,  
email=Gil.Zilkha@austintexas.gov, c=US  
Date: 2020.07.31 15:02:05 -0500



Amendment No. 9  
to  
Contract No. NS120000024  
For  
Software Maintenance, Licenses, Consulting, enhancement and Upgrades  
Between  
CSDC, Inc.  
dba CSDC Systems, Inc.  
and the  
City of Austin

1.0 The Contract is hereby amended as follows: Change the vendor information as requested and documented by the vendor.

	From	To
Vendor Name	CSDC, Inc. dba CSDC Systems, Inc.	Calytera US, Inc
Vendor Code	V00000945854	V00000945854
FEIN	[REDACTED]	[REDACTED]

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

**BY THE SIGNATURE** affixed below, this Amendment No. 9 is hereby incorporated into and made a part of the Contract.

*Linell Goodin-Brown*

Linell Goodin-Brown  
Contract Management Supervisor II  
City of Austin, Purchasing Office

*12-12-19*

Date



Amendment No. 8  
to  
Contract No. 5600 NS120000024  
For  
Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between  
CSDC Systems, Inc., who has assigned this contract to CSDC, Inc. (a Delaware Corporation)  
and the  
City of Austin

- 1.0 The City and Contractor hereby authorize this extension option for the subject contract. Effective February 7, 2018. The term for the extension option will be February 8, 2018 to February 7, 2020. No additional authorization is required for this contract.
- 2.0 The total contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/08/13 – 02/07/14	\$595,359.00	\$595,359.00
Amendment No. 1: Option 1 02/08/13 – 02/07/14	\$457,270.00	\$1,052,629.00
Amendment No. 2: Deletion of Section 3.5 8/14/13	\$0.00	\$1,052,629.00
Amendment No. 3: Option 2 02/08/14 – 02/07/15	\$485,102.00	\$1,537,731.00
Amendment No. 4: Option 3 02/08/15 – 02/07/16	\$512,711.00	\$2,050,442.00
Amendment No. 5: Option 4 02/08/16 – 02/07/17	\$540,554.00	\$2,590,996.00
Amendment No. 6: Option 5 02/08/17 – 02/07/18	\$568,639.00	\$3,159,635.00
Amendment No. 7: Name Change	\$0.00	\$3,159,635.00
Amendment No. 8: Extension (NTE \$400,000/YEAR) 02/08/18 – 02/07/20	\$0.00	\$3,159,635.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

DocuSigned by:  
 Sign/Date: Brian Thomson 11/22/2017  
 1875946133B54DF...

Printed Name: Brian Thomson  
 Authorized Representative  
 CSDC, Inc. (a Delaware Corporation)

3500 Jefferson Street, Suite 303  
 Austin, TX 78731

Sign/Date: [Signature] 11/27/17

Printed Name: James T. Howard, Procurement Manager  
 Authorized Representative

City of Austin  
 Purchasing Office  
 124 W. 8<sup>th</sup> Street, Ste. 310  
 Austin, Texas 78701



**Amendment No. 7**  
to  
Contract No. 5600 NS120000024  
For  
**Software Maintenance, Licenses, Consulting, Enhancement and Upgrades**  
between  
CSDC Systems, Inc.  
and the  
City of Austin

1.0 The Contract is hereby amended as follows: Change the vendor information as requested and documented by the vendor.

	From	To
<b>Vendor Name</b>	CSDC Systems, Inc. dba CSDC Systems, Inc US CO.	CSDC Inc. dba CSDC Systems, Inc
<b>Vendor Code</b>	CSD8321210	✓00000945854
<b>FEIN</b>	██████████	██████████

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

**BY THE SIGNATURE** affixed below, this Amendment No. 7 is hereby incorporated into and made a part of the Contract.

A handwritten signature in cursive script, reading "Linell Goodin-Brown".

Linell Goodin-Brown  
Contract Management Supervisor II  
City of Austin, Purchasing Office

Date

6-16-17



Amendment No. 6  
to  
Contract No. 5600 NS120000024  
For  
Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between  
CSDC Systems, Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. Effective February 8, 2017. The term for the extension option will be February 8, 2017 to February 7, 2018. This is the last option for an extension.
- 2.0 The total contract amount is increased by \$568,639.00 for this extension option period. The total contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/08/13 – 02/07/14	\$595,359.00	\$595,359.00
Amendment No. 1: Option 1 02/08/13 – 02/07/14	\$457,270.00	\$1,052,629.00
Amendment No. 2: Deletion of Section 3.5 8/14/13	\$0.00	\$1,052,629.00
Amendment No. 3: Option 2 02/08/14 – 02/07/15	\$485,102.00	\$1,537,731.00
Amendment No. 4: Option 3 02/08/15 – 02/07/16	\$512,711.00	\$2,050,442.00
Amendment No. 5: Option 4 02/08/16 – 02/07/17	\$540,554.00	\$2,590,996.00
Amendment No. 6: Option 5 02/08/17 – 02/07/18	\$568,639.00	\$3,159,635.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Klee Kleber 02/06/2017

Printed Name: Klee Kleber  
Authorized Representative

CSDC Systems, Inc.  
1705 Tech Ave., Unit #1  
Canada L4W 0A2  
(888) 661-1933

Sign/Date: James T. Howard

Printed Name: JAMES T. HOWARD  
Authorized Representative

City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste. 310  
Austin, Texas 78701



Amendment No. 5  
of  
Contract No. NS120000024  
for  
Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between  
CSDC Systems, Inc  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective February 8, 2016 the term for the extension option will be February 8, 2016 to February 7, 2017. One option remains.
- 2.0 The total contract amount is increased by \$540,554.00 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/8/13 – 02/7/14	\$595,359.00	\$595,359.00
Amendment No. 1: Option 1 02/8/13 – 02/7/14	\$457,270.00	\$1,052,629.00
Amendment No. 2: Deletion of Section 3.5 8/14/13	\$0.00	\$1,052,629.00
Amendment No. 3: Option 2 02/8/14 – 02/7/15	\$485,102.00	\$1,537,731.00
Amendment No. 4: Option 3 02/8/15 – 02/7/16	\$512,711.00	\$2,050,442.00
Amendment No. 5: Option 4 02/8/16 – 02/7/17	\$540,554.00	\$2,590,996.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature and Date: Eric David Jan 27, 2016  
Printed Name: Eric David, EVP  
Authorized Representative

CSDC Systems Inc.  
1705 Tech Ave., Unit #1  
Mississauga, Ontario  
Canada L4W 0A2  
(888) 661-1933

Signature and Date: Shawn Willett 2/2/16  
Shawn Willett, Corporate Contract Compliance Manager  
IT Procurement Team  
Purchasing Office  
City of Austin  
Financial Services



Amendment No. 4  
of  
Contract No. NS120000024  
for  
Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between  
CSDC Systems, Inc  
and the  
City of Austin

1.0 The City hereby exercises the extension option for the above-referenced contract. Effective February 8, 2015 the term for the extension option will be February 8, 2015 to February 7, 2016 and there ~~is one~~ remaining option. *are two SW*

2.0 The total contract amount is increased by \$512,711 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/8/13 – 02/7/14	\$595,359.00	\$595,359.00
Amendment No. 1: Option 1 02/8/13 – 02/7/14	\$457,270.00	\$1,052,629.00
Amendment No. 2: Deletion of Section 3.5 8/14/13	\$0.00	\$1,052,629.00
Amendment No. 3: Option 2 02/8/14 – 02/7/15	\$485,102.00	\$1,537,731.00
Amendment No. 4: Option 3 02/8/15 – 02/7/16	\$512,711.00	\$2,050,442.00

3.0 MBE/WBE goals were not established for this contract.

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature and Date: January 23, 2014

Printed Name: Eric David  
Authorized Representative

CSDC Systems Inc.  
1705 Tech Ave. Ste #1  
Mississauga ON, L4W 0A2

Signature and Date: *Shawn Willett* 2/5/15

Shawn Willett, Corporate Contract Compliance Manager  
IT Procurement Team  
Purchasing Office  
City of Austin  
Financial Services





Amendment No. 3  
of  
Contract No. NS120000024  
for  
Software Maintenance, Licenses, Consulting, Enhancement and Upgrades for JEMS  
between  
CSDC Systems, Inc  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective February 8, 2014 the term for the extension option will be February 8, 2014 to February 7, 2015 and there are four remaining options.
- 2.0 The total contract amount is increased by \$485,102 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/8/13 – 02/7/14	\$595,359.00	\$595,359.00
Amendment No. 1: Option 1 02/8/13 – 02/7/14	\$457,270.00	\$1,052,629.00
Amendment No. 2: Modify language 8/14/13	\$0.00	\$1,052,629.00
Amendment No. 3: Option 2 02/8/14 – 02/7/15	\$485,102.00	\$1,537,731.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature and Date:

Handwritten signature of Tracy A. Ownbey.

Tracy A. Ownbey 12/19/2013

Printed Name:  
Authorized Representative  
CSDC Systems Inc.  
1705 Tech Ave. Ste #1  
Mississauga On, W QA2

Signature and Date:

Handwritten signature of Teresa Reddy with date 1/29/14.

Teresa Reddy, Corporate Contract Compliance Manager  
IT Procurement  
City of Austin  
Purchasing Office



Amendment No. 2  
of  
Contract No. NS120000024  
for  
Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between  
CSDC Systems Inc. ("Contractor")  
and the  
City of Austin ("City")

1.0 Section 3.5 of the Contract is deleted in its entirety and replaced with the following:

"From time to time the City may request on-site visits from Contractor to discuss various issues, enhancements, and updates. Contractor shall be reimbursed for such on-site visits for all reasonable travel time, lodging, meals, and miscellaneous expenses that may be incurred at a rate not to exceed \$2500 per day."

2.0 All other terms and conditions of the Contract remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced Contract.

**CSDC Systems Inc.**

**City of Austin**

Signature  
Name: Tracy A Ownbey\_\_\_\_\_

Title: Asst V/P Business Development (US)\_\_\_\_\_

Date: August 14, 2013\_\_\_\_\_

Signature  
Name: Cynthia Gonzales

Title: Corp Contract Compliance Mgr.

Date: 8/14/13



Amendment No. 1  
of  
Contract No. NS120000024  
for  
Software Maintenance, Licenses, Consulting, Enhancement and Upgrades  
between  
CSDC Systems, Inc  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective February 8, 2013 the term for the extension option will be February 8, 2013 to February 7, 2014 and there are four remaining options.
- 2.0 The total contract amount is increased by \$457,270 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 02/8/13 – 02/7/14	\$595,359.00	\$595,359.00
Amendment No. 1: Option 1 02/8/13 – 02/7/14	\$457,270.00	\$1,052,629.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature and Date:

Printed Name: Tracy A Ownbey  
Title: Asst. V/P Business Development (US)  
Date: January 3, 2013  
Authorized Representative

Signature and Date:

1/24/13

Teresa Reddy, Contract Compliance Manager  
IT Procurement  
City of Austin  
Purchasing Office

CSDC Systems Inc.  
1705 Tech Ave. Ste #1  
Mississauga On, W QA2



Financial and Administrative Service Department  
Purchasing Office  
PO Box 1088, Austin, Texas, 78767

March 5, 2012

CSDC Systems Inc.  
1705 Tech Ave. Ste #1  
Mississauga On, W QA2

Dear Vendro:

The City of Austin approved the execution of a contract with your company for software, maintenance support and consulting services in accordance with the referenced master agreement.

Responsible Department:	Communications Technology Management
Department Contact Person:	Kent Clonts
Department Contact Email Address:	<a href="mailto:ken.clonts@austintexas.gov">ken.clonts@austintexas.gov</a>
Department Contact Telephone:	512-4694
Project Name:	software, maintenance support and consulting services
Contractor Name:	CSDC Systems Inc.
Contract Number:	NS120000024
Contract Period:	February 8, 2012 through February 7, 2013
Extension Options:	Five (twelve) month options
Dollar Amount:	\$3,159,635.00
Agenda Item Number:	34
Council Approval Date:	January 26, 2012

A copy of the contract/purchase order will be forwarded via email.

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person.

Sincerely,

Kenneth Ming  
Contract Compliance Manager  
City of Austin Purchasing Office  
Finance and Administrative  
Service Department

**CONTRACT BETWEEN THE CITY OF AUSTIN  
AND  
CSDC SYSTEMS INC  
FOR  
SOFTWARE MAINTENANCE, LICENSES, CONSULTING, ENHANCEMENT AND UPGRADES**

This Contract is made by and between the City of Austin ("City" or "Customer"), a home-rule municipality incorporated by the State of Texas, and CSDC Systems Inc. ("Contractor" or "Licensor"), having offices at 1705 Tech Avenue, Suite 1, Mississauga, ON L4W 0A2, Canada.

**SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES**

**1.1 Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

**1.2 Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

**1.3 Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.

**1.4 Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Tracy Ownbey; Phone: 817-832-6175; Email: townbey@csdcsystems.com. The City's Contract Manager for the engagement shall be Ken Clonts; 512-974-4694; Email: ken.clonts@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

**SECTION 2. SCOPE OF WORK**

**2.1 Contractor's Obligations.** The Contractor shall fully and timely provide all deliverables described herein and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

**2.2 Tasks.** In order to accomplish the work described herein, the Contractor shall perform each of the following tasks:

2.2.1 Contractor shall provide maintenance and support of the Judicial Enforcement Management Systems (JEMS) software being used by the City's Municipal Court. The maintenance and support shall be provided pursuant to the Software Maintenance and Support Agreement attached hereto as Exhibit A.

2.2.2 Contractor shall provide additional software licenses to the City at a cost not to exceed \$2,400 per named user license which shall include the first year maintenance and support. After the initial year of support the next year's support shall be pro rated to be coterminous with the maintenance and support of the existing licenses.

**Existing Licenses:**

213 - User (Unlimited Inquiry only users)  
48 - IVR with Text to speech  
143 - Scanner/Imaging  
2 - Camera/Imaging  
28 - OPOS Signature/Card Reader devices  
67 - ePad Signature devices  
169 - Stored signatures

2.2.3 Use of the software shall be pursuant to the Software License Agreement attached hereto as Exhibit B.

2.3 **Additional Services.** From time to time the City may request additional services from Contractor such as consulting, enhancements, upgrades and customizations. Such services shall be set forth in a written mutually agreeable Statement of Work with the terms and conditions of this Contract incorporated.

**SECTION 3. COMPENSATION**

3.1 **Contract Amount.** The Contractor will be paid as indicated on Exhibit C. In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not-to-exceed \$595,359 for the initial 12-month term of the Contract; with amounts not to exceed \$457,270 for the first renewal option, \$485,102 for the second renewal option, \$512,711 for the third renewal option, \$540,554 for the fourth renewal option, and \$568,639 for the fifth renewal option for a total Contract amount not to exceed \$3,159,635 for all fees and expenses.

3.2 **Invoices.**

3.2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be mailed to the below address:

	City of Austin
Department	Municipal Court
Attn:	Ken Clonts
Address:	P.O. Box 1088
City, State, Zip Code	Austin, TX 78767

3.2.2 Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

3.2.3 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.2.4 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

3.3 **Payment.**

3.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

3.3.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

3.3.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

3.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

3.3.3.3 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment,

3.3.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

3.3.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

3.3.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

3.3.3.7 failure of the Contractor to comply with any material provision of the Contract.

3.3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

3.4 **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this Contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

3.5 **Travel Expenses.** All travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Contract will be reviewed against the City's Travel Policy and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulation.

3.6 **Final Payment and Close-Out.**

3.6.1 The making and acceptance of final payment will constitute:



3.6.1.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

3.6.1.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

#### **SECTION 4. TERM AND TERMINATION**

4.1 **Term of Contract.** The Contract shall become effective on February 1, 2012 and shall remain in effect for an initial term of twelve (12) months. Thereafter the Contract may be extended for up to five (5) additional twelve (12) month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

4.1.1 Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 calendar days unless mutually agreed on in writing).

4.2 **Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

4.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

4.4 **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

4.6 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

## **SECTION 5. OTHER DELIVERABLES**

5.1 **Insurance.** The following insurance requirements apply.

### **5.1.1 General Requirements**

5.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

5.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within fourteen (14) calendar days after written request from the City.

5.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

5.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

5.1.1.5 The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

5.1.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

5.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the Contractor's email address, and shall be mailed to the following address:

Attn: Lynda Thorpe

City of Austin  
Purchasing Office  
P. O. Box 1088  
Austin, Texas 78767

5.1.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

5.1.1.9 If insurance policies are not written for amounts specified, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

5.1.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable

requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

5.1.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

5.1.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

5.1.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

5.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

5.1.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These Insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

5.1.2.1 **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

5.1.2.1.1 Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project

5.1.2.1.2 Independent Contractor's Coverage

5.1.2.1.3 Products/Completed Operations Liability for the duration of the warranty period

5.1.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage

5.1.2.1.5 Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage

5.1.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage

5.1.2.2 **Business Automobile Liability Insurance.** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements:

5.1.2.2.1 Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage

5.1.2.2.2 Thirty (30) calendar days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage

5.1.2.2.3 The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage

5.1.2.3 **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements:

5.1.2.3.1 The Contractor's policy shall apply to the State of Texas

5.1.2.3.2 Waiver of Subrogation, Form WC 420304, or equivalent coverage

5.1.2.3.3 Thirty (30) calendar days Notice of Cancellation, Form WC 420601, or equivalent coverage

5.1.2.4 **Endorsements.** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

5.1.2.5 **Certificate.** The following statement must be shown on the Certificate of Insurance.

"The City of Austin is an Additional Insured on the general liability and the auto liability policies. A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies."

## 5.2 **Equal Opportunity.**

5.2.1 **Equal Employment Opportunity.** No Contractor or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit D. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the Contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

5.2.2 **Americans With Disabilities Act (ADA) Compliance.** No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

5.3 **Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

## 5.4 **Delays.**

5.4.1 The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

5.4.2 Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

**5.5 Ownership And Use Of Deliverables.** In the event the City requests enhancement or customizations under the Contract, such services shall be deemed a "Work for Hire". In such event, the City shall own all rights, titles, and interests throughout the world in and to the deliverables set forth in the Statement of Work covering the enhancements or customizations.

5.5.1 **Patents.** As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

5.5.2 **Copyrights.** As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this paragraph shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

5.5.3 **Additional Assignments.** The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this paragraph shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms herein.

**5.6 Rights to Proposal and Contractual Material.** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be

proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

5.7 **Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

## **SECTION 6. WARRANTIES**

### **6.1 Warranty – Price.**

6.1.1 The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.1.2 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6.1.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.2 **Warranty – Services.** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

## **SECTION 7. MISCELLANEOUS**

7.1 **Place and Condition of Work.** The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

## 7.2 **Workforce.**

7.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.2.2 The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property:

7.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract.

7.2.2.1.1 use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

7.2.3 If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

7.3 **Compliance with Health, Safety, and Environmental Regulations.** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

7.4 **Significant Event.** The Contractor shall immediately notify the Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.4.1 disposal of major assets;

7.4.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this contract;

7.4.3 any significant termination or addition of provider contracts;

7.4.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.4.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this contract;

7.4.6 reorganization, reduction and/or relocation in key personnel such as, but not limited to, customer service representatives or claims adjusters;

7.4.7 known or anticipated sale, merger, or acquisition;



- 7.4.8 known, planned or anticipated stock sales;
- 7.4.9 any litigation filed by a member against the Contractor; or
- 7.4.10 significant change in market share or product focus.

**7.5 Right To Audit.**

7.5.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.5.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

7.6 **Stop Work Notice.** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

**7.7 Indemnity.**

**7.7.1 Definitions:**

7.7.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

7.7.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or;

7.7.1.1.2 death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

7.7.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

**7.7.2 THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

7.8 **Claims.** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform

hereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

**7.9 Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Contract Administrator

P O Box 1088

Austin, TX 78767

To the Contractor:

CSDC Systems Inc.

ATTN: Tracy A. Ownbey

1705 Tech Avenue, Suite 1

Mississauga, ON L4W0A2, Canada

**7.10 Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

**7.11 Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

**7.12 No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

**7.13 Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City

shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

**7.14 Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

**7.15 Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

**7.16 Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

**7.17 Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

**7.18 Modifications.** The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

**7.19 Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

**7.20 Dispute Resolution.**

7.20.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

7.20.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

#### **7.21 Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program.**

7.21.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

7.21.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

7.21.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

#### **7.22 Subcontractors.**

7.22.1 If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan, the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

7.22.2 Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

7.22.2.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

7.22.2.2 prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

7.22.2.3 require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

7.22.2.4 require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

7.22.2.5 require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

7.22.3 The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

7.22.4 The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten days after receipt of payment from the City.

#### **7.23 Living Wages and Benefits.**

7.23.1 In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health care protection. Currently, the minimum wage for City employees is \$11.00 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain contracts in order to assure quality and continuity of service.

7.23.2 Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain coverage for their family members. Contractors must offer health insurance with optional family coverage for all Contractor employees directly assigned to this contract. Proof of the health care plan shall be provided prior to award of a Contract. In addition, an insurance certificate for Workers' Compensation Insurance Coverage must be provided if required by the solicitation.

7.23.3 The City requires Contractors to provide a signed certification within five (5) calendar days of contract execution certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$11.00 per hour and are offered a health care plan (see Exhibit E, Living Wages and Benefits Contractor Certification). The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.

7.23.4 The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:

7.23.4.1 employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;

7.23.4.2 time and date of week when employee's workweek begins;

7.23.4.3 hours worked each day and total hours worked each workweek;

7.23.4.4 basis on which employee's wages are paid;

7.23.4.5 regular hourly pay rate;

7.23.4.6 total daily or weekly straight-time earnings;

7.23.4.7 total overtime earnings for the workweek;

7.23.4.8 all additions to or deductions from the employee's wages;

7.23.4.9 total wages paid each pay period; and

7.23.4.10 date of payment and the pay period covered by the payment.

7.23.5 The Contractor shall provide with the first invoice and as requested by the Department's Contract Manager, individual Employee Certifications for all employees directly assigned to the contract containing (see Exhibit F, Living Wages and Benefits Employee Certification):

7.23.5.1 the employee's name and job title;

7.23.5.2 a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$11.00 per hour;

7.23.5.3 a statement certifying that the employee is offered a health care plan with optional family coverage.

7.23.6 The employee certifications shall be signed by each employee directly assigned to the contract.

7.23.7 Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the Contract.

7.23.8 The City's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records identified above in this paragraph verify compliance with this provision.

**7.24 Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

**7.25 Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken

provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

7.26 **Survivability of Obligations.** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

7.27 **Non-Suspension or Debarment Certification.** The City is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a contract with the City, the Contractor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

7.28 **Incorporation of Documents.** Section 0100, **Standard Purchase Definitions**, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address: <http://www.ci.austin.tx.us/purchase/standard.htm>.

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

**CSDC Systems Inc.**

By: Tracy A. Ownbey  
Signature

Name: Tracy Ownbey  
Printed Name

Title: Managing Director, Courts and Justice  
Date: February 7, 2012

**City of Austin**

By: Kenneth Ming  
Signature

Name: Kenneth Ming  
Printed Name

Title: Contract Compliance Manager

Date: 02/08/2012

#### **List of Exhibits**

- |           |  |
|-----------|--|
| Exhibit A | Software Maintenance and Support Agreement         |
| Exhibit B | Software License Agreement                         |
| Exhibit C | Pricing  |
| Exhibit D | Non Discrimination Certification                   |
| Exhibit E | Living Wages and Benefits Contractor Certification |
| Exhibit F | Living Wages and Benefits Employee Certification   |

## Exhibit A

### SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT

1. **Purpose.** This Agreement describes the terms and conditions under which Licensors will provide software to Customer in order to keep the Licensed Software current and operating properly ("Maintenance"), as well as the terms and conditions under which Licensors will provide support services to Customer with respect to problems that might arise with respect to use of the Licensed Software ("Support").

2. **Definitions.** Capitalized terms in this Agreement have the following meanings:

- (a) "Business Day" means all days except for Saturdays, Sundays and Federal holidays.
- (b) "Business Hours" means the time between the hours of 8:00 a.m. and 5:00 p.m., Eastern Time, on Business Days.
- (c) "Call Back": Licensors' contacting of Customer (by telephone or e-mail) regarding a Problem Report following initial notification of the Problem Report by Customer.
- (d) "Enhancement": Any addition to the functionality or any improvement in performance of the Licensed Software over previous Releases of such software that is not a Fix, Workaround, or Version.
- (e) "Environment": Any of the following as chosen by Customer and which is actually used by Customer: (i) the Recommended Environment; (ii) any operating system and hardware configuration that is specified by Licensors for optimal use in conjunction with any Release; or (iii) any operating system or hardware configuration other than that set forth in (i) and (ii) that is requested by Customer and approved by Licensors, which approval shall not unreasonably be withheld.
- (f) "Error": A material nonconformity of the Licensed Software to the Specifications.
- (g) "Fix": A change to the Licensed Software consisting of one or more patch(es), replacement module(s), a special program and/or a change in the Documentation that will solve the Problem. A single Fix may apply to more than one Problem.
- (h) "Help Desk": Licensors designated call-in point which is identified to Customer as the resource Customer should contact to ask any questions, make any requests or report any Problems with respect to the Licensed Software.
- (i) "License Agreement": The Software License Agreement between Customer and Licensors, attached hereto as Exhibit B.
- (j) "Licensed Software": Collectively, in executable and source code form, the software licensed to Customer under the License Agreement; both prior and subsequent to execution of the Contract.
- (k) "Major Release": Licensed Software based on a Version of such significance that the Version would ordinarily be designated by a whole number (e.g., 2.x or 3.x).
- (l) "Priority Code": The level of repair urgency assigned to a specific Problem Report, as more particularly described in Section 5(b) of Attachment 1 to this Agreement.
- (m) "Problem": The following deficiencies in the Licensed Software: (1) an Error; (2) failure to operate in a way that is consistent with the warranties stated in the License Agreement; (3) failure to conform to its Documentation; (4) the software causes instability in the Environment, data to be lost, data



to lose integrity or reports to display or print incorrectly; or (5) the software otherwise malfunctions as a result of design defects or is incompatible with the Environment. The term "Problem" shall not include equipment defects, defects in the operating system software which is supplied with the Equipment or networking software which is utilized in the Environment.

(n) "Problem Report": A report of a single Problem by Customer.

(o) "Problem Report Response": Licensor's issuance of a Fix or Workaround in response to a Problem Report, or the Parties' agreement that no Fix or Workaround is required because the problem's status category is determined to be "Deferred," "Not a software issue," "User error," or persistently "Not reproducible."

(p) "Recommended Environment": The initial hardware and operating system configuration for the Licensed Software as recommended by Licensor and set forth in Exhibit B.

(q) "Release": Any Fix, Workaround, Enhancement, Version or Major Release.

(r) "Version": A modification of the Licensed Software involving additional or improved functionality, including periodic maintenance releases, which Licensor makes generally available to its customers.

(s) "Workaround": A temporary solution to a Problem Report. A Workaround alone does not constitute a Resolution.

**3. Licensor's Maintenance Obligations.** Licensor shall have an obligation to provide maintenance Releases as follows:

(a) **Fixes and Workarounds.** Licensor shall provide Fixes and Workarounds in order to solve Problems as provided in Section 4 of this Agreement.

(b) **Releases.** Licensor shall provide to Customer as soon as practicable all Releases that Licensor makes generally available to its other customers of any Version of the Licensed Software.

(c) **Quality Assurance.** All Releases provided to Customer by Licensor shall be provided after appropriate quality assurance by Licensor at no cost beyond the maintenance and support fees specified in Exhibit A to this Agreement. Releases shall be modified as appropriate and in a timely fashion to be compatible and operable with all of the Licensed Software in the Environment. Licensor shall make Releases available as Customer may direct, whether by downloading, by shipment of Customer-designated physical media at Licensor's expense, or by other means.

(d) **Duration.** Licensor shall provide maintenance and support for each Release for so long as Customer pays annual fees to Licensor for Support and Maintenance.

**4. Licensor's Support Obligations.** Licensor shall have the following support obligations:

(a) **Problem Resolution.** Consistent with the procedures for resolving Problems set forth in Section 5 below, Licensor shall have the duty to issue Fixes and Workarounds.

(b) **Designated Personnel.** Licensor shall designate, and at all times maintain and provide contact information to Customer with respect to a team of Licensor personnel who are knowledgeable and specially trained to understand and work with the Licensed Software ("Designated Support Team").

(c) **Telephone Support.** Licensor shall provide direct telephone support to answer questions and initiate corrective actions related to operation, installation, configuration, documentation, general product information, and Problem Reports concerning the Licensed Software presented by

Customer's Designated Representatives in accordance with the procedures set forth in Section 5 hereof. Such telephone support service will be available during Business Hours. Licensor shall maintain adequate telecommunications capabilities to minimize on-hold time and busy signals. The scope of telephone support may be expanded by agreement of the parties.

(d) **Licensor Contact.** Licensor shall identify one of its personnel as being responsible for coordinating its relationship with Customer.

**5. Problem Reports and Resolution.** Problem Reports shall be handled according to the division of responsibility and procedures described below:

(a) **Time Intervals.** All time intervals specified in this Section 5 and Attachment 1 shall consist of Business Days.

(b) **Priority Code.** The Priority Code shall indicate the urgency with which Licensor must respond to the Problem Report. Customer and Licensor will use the nature of the problem and the business situation to mutually determine the Priority Code upon its issuance of the Problem Report. The Problem Report's Priority Code may be reclassified by Licensor upon consent by Customer.

(c) **Notification and Call Back.** A Customer Designated Representative will contact Licensor by telephone or email to notify Licensor of a Problem Report and related Priority Code. If a Licensor Designated Representative is not immediately available to speak with the Customer Designated Representative, then Licensor shall page a Licensor Designated Representative, and such Licensor Designated Representative will provide a Call Back to the Customer Designated Representative within the time period indicated for the applicable Priority Code as set forth in Attachment 1 to this Agreement. The Licensor Designated Representative will verify and analyze the Problem Report and assign the appropriate initial status category to the Problem Report from among those listed in Section 5(d) below.

(d) **Problem Report Status.** Activities undertaken to respond to and resolve the Problem Report shall be recorded in Licensor's Problem Report database by Licensor as they occur. The problem resolution status categories shall be:

1. Acknowledged
2. Reproduced
3. Waiting for more information or materials
4. Under Investigation
5. Deferred - A problem otherwise requiring a Workaround or Fix exists, but no Workaround or Fix is provided because the parties agree that the problem can be timely and adequately resolved through Licensor's scheduled delivery of a Version.
6. Not a software issue - The problem is not a software problem (i.e., it is a hardware problem, electronic interference or due to other non-software issues)
7. User error
8. Not reproducible
9. Duplicate Problem Report - The original Problem Report is cross-referenced.
10. Workaround being developed
11. Workaround supplied
12. Fix being developed
13. Fix supplied
14. Closed - Customer and Licensor agree the problem is resolved

(e) **Problem Report Response and Resolution.**

(i) After its receipt and acknowledgment of a Problem Report, Licensor shall address the problem, test the proposed correction, enter the Problem Report solution into

Licensors' Problem Report database, and forward the Problem Report Response to Customer for implementation.

(ii) Unless otherwise agreed, Licensor will provide a Problem Report Response in the form of a Fix or Workaround within the time frames specified in Attachment 1, given the severity of the Problem.

(iii) A change to the Documentation may not serve as a Fix without Customer's specific written approval.

(iv) Unless otherwise agreed, Licensor will provide a Resolution within the time period for the applicable Priority Code set forth in Attachment 1.

(f) **Remote Dial-In Support.** As appropriate, Licensor shall dial-in to a computer designated by Customer to investigate a Problem Report following Customer's request. Licensor will comply with all security procedures established by Customer with respect to remote access.

(g) **Onsite Problem Report Resolution by Licensor Personnel.** In the event that Licensor and Customer agree that a Problem Report will be addressed most expediently or efficiently through an onsite visit by one or more members of the Designated Support Team or other Licensor technical staff, Licensor will provide such staff at a time to be agreed by the parties at Customer's expense.

(h) **Status Reports.** Licensor shall provide Customer with access to an on-line database which contains an up-to-date status report summarizing the status of all unresolved Problem Reports, and shall include a description of the specific problem resolution actions taken or contemplated, and the status of Licensor's remedial efforts and anticipated time of solution. In addition, for Priority Code 1 Problem Reports Licensor will provide a daily status report to Customer's primary Designated Representative.

**6. Duties of Customer.** The duties of Customer shall be as follows:

(a) **Help Desk.** Customer will provide, through Customer's internal Help Desk, the point of first-call contact to end users with respect to problems and inquiries related to the Licensed Software. If necessary, the Help Desk personnel will contact one of the Customer Designated Representatives which Representatives shall be the only personnel authorized to call Licensor's Designated Support Team.

(b) **Customer Contact.** Customer shall identify one or more of its personnel for being responsible for coordinating this relationship with Licensor.

(c) **Maintenance and Support Fees.** The support services set forth herein shall be provided by Licensor to Customer during the warranty period specified in the License Agreement at no additional charge to Customer. Thereafter, such support services shall be provided by Licensor, upon Customer's request, for a fixed term, at the applicable fees and charges set forth in Exhibit A. Customer may discontinue such support services at any time by providing thirty (30) days' advance written notice to Licensor.

**7. Taxes.** Customer is not subject to taxation. No federal or other taxes (excise, luxury, transportation, sales, etc.) shall be included in quoted prices. Customer shall not be obligated to pay or reimburse Licensor for any taxes attributable to the sale of any services which are imposed on or measured by net or gross income, capital, net worth, franchise, privilege, any other taxes, or assessments, nor any of the foregoing imposed on or payable by Licensor. Upon written notification by Customer and subsequent verification by Licensor, Licensor shall reimburse or credit, as applicable, Customer in a timely manner, for any and all taxes erroneously paid by Customer. Customer shall provide Licensor with, and Licensor shall accept in good faith, resale, direct pay, or other exemption certificates, as applicable. In the event the Customer is subject to taxation, Licensor will invoice and Customer will be subject to payment of taxes.

**8. Miscellaneous.**

(a) **Binding Nature, Assignment, and Subcontracting.** This Agreement shall be binding on the parties and their respective successors in interest and assigns, but Licensor shall not have the power to assign this Agreement without the prior written consent of Customer. If Licensor subcontracts or delegates any of its duties or obligations of performance in this Agreement to any third party, Licensor shall remain fully responsible for complete performance of all of Licensor's obligations set forth in this Agreement and for any such third party's compliance therewith.

(b) **Media Releases.** Except for any announcement intended solely for internal distribution by Licensor or any disclosure required by legal, accounting, or regulatory requirements beyond the reasonable control of Licensor, all media releases, public announcements, or public disclosures (including, but not limited to, promotional or marketing material) by Licensor or its employees or agents relating to this Agreement or its subject matter, or including the name, trade name, trade mark, or symbol of Customer, shall be coordinated with and approved in writing by Customer prior to the release thereof. Licensor shall not represent directly or indirectly that any services provided by Licensor to Customer have been approved or endorsed by Customer or include the name, trade name, trade mark, or symbol of Customer on a list of Licensor's customers without Customer's express written consent.

(c) **Labor.** Licensor shall comply with any labor jurisdictions applicable to Licensor's performance pursuant to this Agreement and shall cooperate with Customer in resolving any disputes resulting from any jurisdictional or labor claims or stoppages. Upon request by Licensor, Customer shall provide to Licensor clarification and guidelines regarding relationships with labor and Licensor's responsibilities with respect thereto.

(d) **Nonexclusive Market and Purchase Rights.** It is expressly understood and agreed that this Agreement does not grant to Licensor an exclusive right to provide to Customer any or all of the services. Licensor agrees that acquisitions by Customer pursuant to this Agreement shall neither restrict the right of Customer to cease acquiring nor require Customer to continue any level of such acquisitions. Estimates or forecasts furnished by Customer to Licensor prior to or during the term of this Agreement shall not constitute commitments.

**Attachment 1  
To Exhibit A**

**Licensors Customer Support / Incident Response Table**

<b>Priority Codes</b>	<b>Severity Codes</b>		<b>Call Back / Response Time Frame</b>	<b>Workaround</b>	<b>Resolution</b>
1	Critical – Service Pack	Production is halted; end users cannot connect; daily business is severely impacted; no Workaround known	2 Business Hours	Constant effort until relief provided or until Problem reduced to Low status. Workaround provided within 8 Business Hours of initial notification if available.	Finally resolved in a Service Pack to be delivered prior to the current planned & scheduled Release and immediately when resolved.
1	High Impact – This Release	Software is operational but a major component is not functioning; physical data lost; data integrity affected; no Workaround	4 Business Hours	Constant effort until relief provided or until Problem reduced to Low status. Workaround or Fix provided within 24 Business Hours of initial notification if available.	Finally resolved in the current planned & scheduled Release.

2	Next Release	Function is not operating as expected but problem is not critical; Workaround exists	8 Business Hours	Workaround provided within three (3) Business Days if available	Finally resolved in next regularly scheduled Release.
3	Medium Impact	Cosmetic, Documentation or GUI issue; operation is not adversely affected; anomaly found on screen, in a report or in Documentation but Function is heavily used	Two (2) Business Days	Workaround provided within ten (10) Business Days if available	Finally resolved in a future release to be determined by Licensor management
3	Low Impact	Cosmetic, Documentation or GUI issue; operation is not adversely affected; anomaly found on screen, in a report or in Documentation but Function is rarely used	Two (3) Business Days	Workaround provided within ten (15) Business Days if available	Finally resolved in a future release to be determined by Licensor management
3 – Priority can change during analysis	Enhancement	Product Enhancement	Two (2) Business Days	Enhancement provided within thirty (30) Business Days of approved SOW and any agreed upon financial terms	Enhancement provided with the next scheduled Release after completion of Enhancement

**Exhibit B**  
**SOFTWARE LICENSE AGREEMENT**

**ARTICLE I. AGREEMENT, TERM, AND DEFINITIONS.**

**1.1 Agreement and Term.** The parties agree that the terms and conditions of this Agreement apply to the provision of computer software programs and services to Customer by Licensor. The term of this Agreement commences on the Effective Date of the Contract or the date the licenses were purchased under prior agreements and the Agreement shall continue to be in effect until terminated by either party as set forth in this Agreement.

**1.2 Certain Definitions.** The following definitions apply to this Agreement:

(a) "Applicable Laws" means all laws, ordinances, rules, regulations, orders, interpretations, requirements, standards, codes, resolutions, licenses, permits, judgments, decrees, injunctions, writs and orders of any court, arbitrator, or governmental (federal, national, state, municipal, local or other, having jurisdiction over a party or where any part of the Products are situated) agency, body, instrumentality or authority that are applicable to any or all of the parties or the terms of this Agreement.

(b) "Applicable Specifications" means the functional, performance, operational, compatibility, and other specifications or characteristics of a Product described in the Documentation.

(c) "Defect" means any failure of the System to operate in material conformity with the Applicable Specifications.

(d) "Documentation" means user guides, operating manuals, education materials, product descriptions and specifications, technical manuals, supporting materials, and other information relating to the Product, whether distributed in print, magnetic, electronic, or video format, in effect as of the date a Product is shipped to or is accepted by Customer, as applicable.

(e) "Licensed Software" means computer programs in object code and Source Code, provided or to be provided by Licensor pursuant to this Agreement or purchased previously by Customer. The definition of Licensed Software also includes any enhancements, translations, modifications, updates, releases, or other changes to Licensed Software which are provided or to be provided as part of Licensor's performance of warranty service obligations or pre-paid support services for the Licensed Software.

(f) "Products" means, individually or collectively as appropriate, Licensed Software and Documentation provided by Licensor pursuant to this Agreement.

(g) "Source Code" of the Licensed Software means the Licensed Software written in programming languages, including all comments and procedural code, such as job control language statements, in a form intelligible to trained programmers and capable of being translated into object code for operation on computer equipment through assembly or compiling, and accompanied by documentation, including flow charts, schematics, and statements of principles of operations, describing the data flows, data structures, and in effect as of the date the Licensed Software is shipped, in sufficient detail to enable a trained programmer through study of such documentation to maintain and/or modify the Licensed Software.

**ARTICLE II. GRANT OF LICENSE.**

**2.1 Grant of License.** For each item of Licensed Software received by Customer, Licensor grants Customer and Customer has a nonexclusive, irrevocable, perpetual Named User License to use, execute, store, and display the object code version of the Licensed Software, in "full-use" mode, on behalf of Customer and those having business with the Customer in accordance with the terms of this Agreement. In addition, for each item of Licensed Software received by Customer, Licensor grants Customer and Customer has a nonexclusive

irrevocable, perpetual license to permit unlimited "read-only/inquiry-only" access to the Licensed Software, on behalf of County and those having business with the County, through the Internet and/or through any LAN, WAN, or other computer network.

(a) A "Named User License" permits Customer to use the Licensed Software (in a "full use" mode) on any single computer, file server, or item of equipment which may be accessed by multiple, networked devices (collectively hereinafter referred to as the "Network"), provided that the number of "full-use" users who are assigned user IDs and passwords to access the Licensed Software **is limited to the number of named users specified on Exhibits at any time**, unless additional Named User Licenses are purchased by Customer. Customer may cancel a Named User license, and, without additional charge, reassign such Named User License to another representative of the Customer, upon notification to Licenser. Customer may purchase additional Named User Licenses for the fee specified in Section 2.2.2 of the Contract.

(b) Any license granted under this Agreement permits Customer to: (i) use Products for its municipal and corporate purposes including, but not limited to, providing services to or processing data of residents of Customer, providing remote access to the Products, and performing disaster recovery, disaster testing, archival and backup as Customer deems necessary, and (ii) use, copy and modify Products for the purpose of creating and using training materials relating to the Products, which training materials may include flow diagrams, system operation schematics, or screen prints from operation of the Products. Customer may make two (2) archival copies of the Licensed Software, plus as many copies of both the client and server components of the Licensed Software as are necessary and proper under the normal back-up procedures which are utilized by Customer. Notwithstanding any provision of the Agreement to the contrary, access to and use of the Products by Customer's contractors (including, but not limited to, any provider of information technology outsourcing services to Customer) shall be considered use by Customer under the Agreement; provided such contractors agree to maintain the confidentiality of any of Licenser confidential information.

(c) Within (90) days from the Effective Date, Licenser shall deliver to Customer a version of the Licensed Software.

**2.2 Ownership of Licensed Software and Modifications.** The Licensed Software shall be and remain the property of Licenser or third parties which have granted Licenser the right to license the Licensed Software and Customer shall have no rights or interests therein except as set forth in this Agreement.

**2.3 Proprietary Markings.** Customer shall not remove or destroy any proprietary markings or proprietary legends placed upon or contained within the Products.

**2.4 Duplication of Documentation.** Customer may duplicate Licensed Software Documentation, at no additional charge, for Customer's use in connection with the provision of Licensed Software so long as all required proprietary markings are retained on all duplicated copies.

**2.5 Non-Disclosure.** Subject to the provisions of the Open Records Act, CRS Section 24-72-101 et. seq., during the term of a License, Customer will treat the Licensed Software and Documentation with the same degree of care and confidentiality which Customer provides for similar information belonging to Customer which Customer does not wish disclosed to the public, but not less than reasonable care. This provision shall not apply to Licensed Software and Documentation, or any portion thereof, which is (a) already known by Customer without an obligation of confidentiality, (b) publicly known or becomes publicly known through no unauthorized act of Customer, (c) rightfully received from a third party without obligation of confidentiality, (d) disclosed without similar restrictions by Licenser to a third party, (e) approved by Licenser for disclosure, or (f) required to be disclosed pursuant to a requirement of a governmental agency or Applicable Law. It will not be a violation of this Section if (i) Customer provides access to and the use of the Licensed Software to third parties providing services to Customer so long as Customer secures execution by such third parties of a confidentiality agreement as would normally be required by Customer, or (ii) Customer independently develops software which is similar to Licensed Software, so long as such independent development is substantiated by written documentation.



### ARTICLE III. DELIVERY OF PRODUCTS; ACCEPTANCE.

**3.1 Transportation of Products.** Licensor shall deliver Products to Customer in the quantities specified in a purchase order to Licensor by Customer. Charges for transportation of Products shall be paid by Licensee. The method and mode of all transportation shall be those selected by Customer.

**3.2 Risk of Loss.** All risk of loss of, or damage to, Products shall be borne by Licensor until receipt of delivery of such Products by Customer. Licensor agrees to insure Products until receipt of delivery of such Products by Customer. If loss to or damage of Products occurs prior to receipt of delivery by Customer, Licensor shall immediately provide a replacement item or, if Products is not immediately replaceable, Licensor shall give Customer highest priority for the provision of replacement Products.

#### **3.3 Acceptance of Products.**

(a) Customer shall accept delivered copy(ies) of Products on the date (the "Acceptance Date") when all necessary Documentation has been received and the Products perform in accordance with and conforms to the Applicable Specifications. In the event Products does not so perform, Customer may (i) continue to test the Products with the assistance of Licensor, (ii) permit Licensor to repair or replace the Products at no additional expense to Customer, or (iii) return the Products to Licensor, at Licensor's expense and without liability to Licensor, and any amounts paid by Customer for the Products shall be refunded by Licensor to Customer. Customer shall be deemed to have accepted a Product upon the earlier of: (1) Customer's failure to provide Licensor with notice of a non-conformity within thirty (30) days following delivery of the non-conforming Product, or (2) Customer placing the Product into productive use.

(b) Payment for Products provided hereunder, or inspection or testing thereof by Customer, shall not constitute acceptance or relieve Licensor of its obligations under this Agreement. Customer may inspect the Products delivered and reject upon notification to Licensor any and all such Products which do not conform to the Applicable Specifications or the requirements of this Agreement. Products which are rejected shall be promptly corrected, repaired, or replaced by Licensor, such that the Products conform to the Applicable Specifications and the requirements of this Agreement. If Customer receives Products with a Defect or non-conformity not reasonably apparent on inspection, then Customer reserves the right to require prompt correction, repair, or replacement by Licensor in accordance with Licensor's warranty obligations under this Agreement following the discovery of such Defect of non-conformity.

**3.4 Right to Cancel for Delays.** Licensor agrees to notify Customer promptly of any factor, occurrence, or event coming to its attention that may affect Licensor's ability to meet the requirements of the Agreement, or that is likely to occasion any material delay in completion of any obligations of Licensor hereunder. In the event of a delay in delivery of all or any portion of Products or in the event of a delay in the performance of services under the Professional Services Agreement between the parties which is not excused in this Agreement and which is not cured within thirty (30) days, Customer may cancel without charge all or any portion of the Products, for which delivery has been so delayed. If, in Customer's opinion, the delivered Products are not operable without the remaining undelivered Products, Customer may, at Licensor's expense, return any delivered Products to Licensor. Customer shall receive a refund of all amounts paid to Licensor with respect to the canceled and/or returned Products.

### ARTICLE IV. WARRANTIES, INDEMNITIES, AND LIABILITIES.

#### **4.1 Warranties.** Licensor represents and warrants that:

(a) Licensor has not and will not enter into agreements or commitments which are inconsistent with or conflict with the rights granted to Customer in this Agreement.

(b) The Products are and shall be free and clear of all liens and encumbrances, and Customer shall be entitled to use the Products without disturbance.

(c) No portion of the Products contain, at the time of delivery, any "back door," "time bomb," "Trojan horse," "worm," "drop dead device," "virus," or other computer software routines or hardware components designed to (i) permit access or use of either the Products or Customer's computer systems by Licensor or a third party not authorized by this Agreement, (ii) disable, damage or erase the Products or data, or (iii) perform any other such actions.

(d) The Products and the design thereof shall not contain preprogrammed preventative routines or similar devices which prevent Customer from exercising the rights set forth in Article II of this Agreement or from utilizing the Products for the purpose for which they were designed.

(e) Each Product and its media (i) shall be new and shall be free from Defects in manufacture, materials, and design, (ii) shall be manufactured in a good and workmanlike manner using a skilled staff fully qualified to perform their respective duties, and (iii) shall function properly under ordinary use and operate in material conformance with its Applicable Specifications from the date of receipt until one year from date of execution of this agreement.

(f) The Products are, and shall continue to be, data, program, and upward compatible with any other Products available or to be available from Licensor so that data files created for a Product can be utilized without adaptation with other Products supplied by Licensor and such Products will operate with other Products and will not result in the need for alteration, emulation, or other loss of efficiency. Licensor shall provide to Customer at least ninety (90) days prior written notice to discontinue any Product.

**4.2 Proprietary Rights Indemnification.** Licensor represents and warrants that (a) at the time of delivery to Customer, no Product, functionality or methodology provided under this Agreement is the subject of any litigation ("Litigation"), and (b) Licensor has all right, title, ownership interest, and/or marketing rights necessary to provide the Products, functionality and methodology to Customer and that each license, the Products, their functionality and methodology, and their license, and use hereunder do not and shall not directly or indirectly violate or infringe upon, induce infringement of, contribute to infringement of, or misappropriate any patent, copyright, trademark, trade dress, trade secret or other rights of any third party ("Infringement"). Licensor shall indemnify and hold Customer and its successors, employees, and agents harmless from and against any and all actions, claims, losses, damages, liabilities, awards, costs, and expenses (including legal fees) resulting from or arising out of any Litigation, any breach or claimed breach of the foregoing warranties, or which is based on a claim of an Infringement and Licensor shall defend and settle, at its expense, all suits or proceedings arising therefrom. Customer shall inform Licensor of any such suit or proceeding against Customer and shall have the right to participate in the defense of any such suit or proceeding at its expense and through counsel of its choosing. Licensor shall notify Customer of any actions, claims, or suits against Licensor based on an alleged Infringement of any party's intellectual property rights in and to the Products, their functionality or methodology. In the event an injunction is sought or obtained against use of the Products, their functionality or methodology or in Customer's opinion is likely to be sought or obtained, Licensor shall promptly, at its option and expense, either (i) procure for Customer the right to continue to use the infringing Product, functionality or methodology as set forth in this Agreement, or (ii) replace or modify the infringing Products, functionality or methodology to make its use non-infringing while being capable of performing the same function without degradation of performance.

**4.3 Personal Injury or Property Damage.** In the event any act or omission of Licensor or its employees, servants, agents, or representatives causes or results in (a) damage to or destruction of tangible or real property of Customer or third parties, and/or (b) death or injury to persons including, but not limited to, employees or invitees of Customer, then Licensor shall indemnify, defend, and hold Customer and its successors, employees, and agents harmless from and against any and all claims, actions, damages, demands, liabilities, costs, and expenses, including reasonable attorneys' fees and expenses, resulting therefrom. Licensor shall pay or reimburse the indemnified parties promptly for all such damage, destruction, death, or injury.

**4.4 Survival of Article IV.** The provisions of this Article IV shall survive the term or termination of this Agreement for any reason.

ARTICLE V. PAYMENTS TO Licensor.

**5.1 Payment; Invoicing.** Payment and invoicing shall be governed by the Contract.

#### ARTICLE VI. TERMINATION.

**6.1 Termination for Cause.** Except as provided below by the Section of this Agreement titled "Termination for Non-Payment," in the event that either party materially or repeatedly defaults in the performance of any of its duties or obligations set forth in this Agreement, and such default is not substantially cured within thirty (30) days after written notice is given to the defaulting party specifying the default, then the party not in default may, by giving written notice thereof to the defaulting party, terminate this Agreement as of a date specified in such notice of termination.

**6.2 Termination for Insolvency or Bankruptcy.** Either party may immediately terminate this Agreement by giving written notice to the other party in the event of (a) the liquidation or insolvency of the other party, (b) the appointment of a receiver or similar officer for the other party, (c) an assignment by the other party for the benefit of all or substantially all of its creditors, (d) entry by the other party into an agreement for the composition, extension, or readjustment of all or substantially all of its obligations, or (e) the filing of a meritorious petition in bankruptcy by or against the other party under any bankruptcy or debtors' law for its relief or reorganization.

**6.3 Termination for Non-Payment.** Licensor may terminate this Agreement if Customer fails to pay when due any undisputed amounts due pursuant to this Agreement and such failure continues for a period of forty five (45) days after the last day payment is due, so long as Licensor gives Customer written notice of the expiration date of the aforementioned forty five (45) day period at least thirty (30) days prior to the expiration date.

**6.4 Termination for Non-Appropriation.** If Customer is not allotted funds for the next succeeding fiscal period by appropriation, appropriation limitation, grant, or other funding source available to it for purposes of this Agreement, the Agreement shall automatically terminate at the end of such current fiscal period for which funds have been allocated, without penalty to Customer. Such termination shall not constitute an event of default under any other provision of this Agreement, but Customer shall be obligated to pay all charges incurred through the end of the current fiscal period. Customer shall give Licensor written notice of such unavailability of funds not later than thirty (30) days after it receives notice of such unavailability.

#### ARTICLE VII. MISCELLANEOUS.

**7.1 Binding Nature, Assignment, and Subcontracting.** This Agreement shall be binding on the parties and their respective successors in interest and assigns, but Licensor shall not have the power to assign this Agreement without the prior written consent of Customer. If Licensor subcontracts or delegates any of its duties or obligations of performance in this Agreement to any third party, Licensor shall remain fully responsible for complete performance of all of Licensor's obligations set forth in this Agreement and for any such third party's compliance with the non-disclosure and confidentiality provisions set forth in this Agreement.

**7.2 Counterparts.** This Agreement may be executed in several counterparts, all of which taken together shall constitute one single agreement between the parties.

**7.3 Headings.** The Article and Section headings used in this Agreement are for reference and convenience only and shall not enter into the interpretation hereof.

**7.4 Relationship of Parties.** Licensor is performing pursuant to this Agreement only as an independent contractor. Licensor has the sole obligation to supervise, manage, contract, direct, procure, perform or cause to be performed its obligations set forth in this Agreement, except as otherwise agreed upon by the parties. Nothing set forth in this Agreement shall be construed to create the relationship of principal and agent between Licensor and Customer. Licensor shall not act or attempt to act or represent itself, directly or by

implication, as an agent of Customer or in any manner assume or create, or attempt to assume or create, any obligation on behalf of, or in the name of, Customer.

**7.5 Confidentiality.** Licensor acknowledges that in the course of performance of its obligations pursuant to this Agreement, Licensor may obtain confidential and/or proprietary information of Customer. Licensor hereby agrees that all confidential information communicated to it by Customer, whether before or after the Effective Date, shall be and was received in strict confidence, shall be used only for purposes of this Agreement, and shall not be disclosed by Licensor, its agents or employees without the prior written consent of Customer. This provision shall not apply to Confidential Information which is (a) already known by Licensor without an obligation of confidentiality, (b) publicly known or becomes publicly known through no unauthorized act of Licensor, (c) rightfully received from a third party without obligation of confidentiality, (d) disclosed without similar restrictions by Customer to a third party, (e) approved by Customer for disclosure, or (f) required to be disclosed pursuant to a requirement of a governmental agency or Applicable Law so long as Licensor provides Customer with timely prior written notice of such requirement. All information received by Customer from Licensor shall be subject to the Open Records Act, CRS Section 24-72-101 et. seq. The provisions of this Section shall survive the term or termination of this Agreement for any reason.

**7.6 Media Releases.** Except for any announcement intended solely for internal distribution by Licensor or any disclosure required by legal, accounting, or regulatory requirements beyond the reasonable control of Licensor, all media releases, public announcements, or public disclosures (including, but not limited to, promotional or marketing material) by Licensor or its employees or agents relating to this Agreement or its subject matter, or including the name, trade name, trade mark, or symbol of Customer, shall be coordinated with and approved in writing by Customer prior to the release thereof. Licensor shall not represent directly or indirectly that any Products provided by Licensor to Customer has been approved or endorsed by Customer or include the name, trade name, trade mark, or symbol of Customer on a list of Licensor's customers without Customer's express written consent.

**7.7 Labor.** Licensor shall comply with any labor jurisdictions applicable to Licensor's performance pursuant to this Agreement and shall cooperate with Customer in resolving any disputes resulting from any jurisdictional or labor claims or stoppages. Upon request by Licensor, Customer shall provide to Licensor clarification and guidelines regarding relationships with labor and Licensor's responsibilities with respect thereto.

**7.8 Export.** Neither party shall export any Products or information protected hereunder by an obligation of confidentiality from the United States, either directly or indirectly, without first obtaining a license or clearance as required from the U.S. Department of Commerce or other agency or department of the United States Government.

**7.9 Force Majeure.** The term "Force Majeure" shall be defined to include fires or other casualties or accidents, acts of God, severe weather conditions, strikes or labor disputes, war or other violence, or any law, order, proclamation, regulation, ordinance, demand, or requirement of any governmental agency.

(a) A party whose performance is prevented, restricted, or interfered with by reason of a Force Majeure condition shall be excused from such performance to the extent of such Force Majeure condition so long as such party provides the other party with prompt written notice describing the Force Majeure condition and takes all reasonable steps to avoid or remove such causes of nonperformance and immediately continues performance whenever and to the extent such causes are removed.

(b) If, due to a Force Majeure condition, the scheduled time of delivery or performance is or will be delayed for more than thirty (30) days after the scheduled date, the party not relying upon the Force Majeure condition may terminate, without liability to the other party, this Agreement or any portion thereof covering the delayed Products.

(c) If a Force Majeure condition or other delay by Licensor causes Customer to terminate its business relationship with a third party for whom delayed Products were ordered and Customer has no alternative use for the Products after using reasonable efforts to relocate or otherwise utilize the Products, then Customer may terminate this Agreement and Licensor shall refund to Customer all amounts paid hereunder.

**7.11 Severability.** If, but only to the extent that, any provision of this Agreement is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations arising under such provision, it being the intent and agreement of the parties that this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent. If that is not possible, another provision that is legal and enforceable and achieves the same objective shall be substituted. If the remainder of this Agreement is not affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by Applicable Law.

**7.12 Waiver.** Any waiver of this Agreement or of any covenant, condition, or agreement to be performed by a party under this Agreement shall (a) only be valid if the waiver is in writing and signed by an authorized representative of the party against which such waiver is sought to be enforced, and (b) apply only to the specific covenant, condition or agreement to be performed, the specific instance or specific breach thereof and not to any other instance or breach thereof or subsequent instance or breach.

**7.13 Remedies.** All remedies set forth in this Agreement, or available by law or equity shall be cumulative and not alternative, and may be enforced concurrently or from time to time.

**7.14 Survival of Terms.** Termination or expiration of this Agreement for any reason shall not release either party from any liabilities or obligations set forth in this Agreement which (a) the parties have expressly agreed shall survive any such termination or expiration, or (b) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

**7.15 Nonexclusive Market and Purchase Rights.** It is expressly understood and agreed that this Agreement does not grant to Licensor an exclusive right to provide to Customer any or all of the Products and shall not prevent Customer from developing or acquiring from other suppliers computer software programs similar to the Products. Licensor agrees that acquisitions by Customer pursuant to this Agreement shall neither restrict the right of Customer to cease acquiring nor require Customer to continue any level of such acquisitions. Estimates or forecasts furnished by Customer to Licensor prior to or during the term of this Agreement shall not constitute commitments.

**Exhibit C  
Pricing**

**The following are estimated not-to-exceed amounts.**

Licensors licenses, maintenance, support, consulting, enhancements and upgrades

Contract period	Annual Maintenance Contract	Consulting	Enhancements	Licenses	Additional Maintenance	TOTAL
2/1/12 - 1/31/13	245,359	100,000	200,000	50,000		595,359
2/1/13 - 1/31/14	252,270	50,000	100,000	10,000	45,000	457,270
2/1/14 - 1/31/15	305,302	50,000	100,000	10,000	19,800	485,102
2/1/15 - 1/31/16	332,911	50,000	100,000	10,000	19,800	512,711
2/1/16 - 1/31/17	360,754	50,000	100,000	10,000	19,800	540,554
2/1/17 - 1/31/18	388,839	50,000	100,000	10,000	19,800	568,639
	1,885,435	350,000	700,000	100,000	124,200	3,159,635

**Exhibit D**  
**City of Austin, Texas**  
**EQUAL EMPLOYMENT/FAIR HOUSING OFFICE**  
**NON-DISCRIMINATION CERTIFICATION**

**City of Austin, Texas**  
**Human Rights Commission**

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

**Sec. 4-2 Discriminatory Employment Practices Prohibited.** As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

**City of Austin**  
**Minimum Standard Non-Discrimination in Employment Policy:**

*As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.*

*The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.*

*Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.*

*Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.*

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

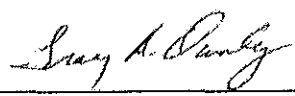
**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 7th day of February, 2012

CONTRACTOR	<u>Tracy Ownbey</u>
Authorized Signature	
Title	<u>Managing Director Courts &amp; Justice</u>



**EXHIBIT E**  
**CITY OF AUSTIN, TEXAS**  
**Living Wages and Benefits Contractor Certification**  
*(Please duplicate as needed)*

Pursuant to the Living Wages and Benefits the Contractor is required to pay to all employees directly assigned to providing Services pursuant to this Contract a minimum Living Wage equal to or greater than \$11.00 per hour.

I hereby certify under penalty of perjury that all of the below listed employees of the Contractor who are directly assigned to this Contract:

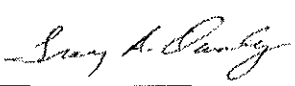
are compensated at wage rates equal to or greater than \$11.00 per hour; and  
are offered a health care plan with optional family coverage.

Employee Name	Employee Job Title
Tracy Ownbey	Managing Director, Courts & Justice

all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.00 per hour and offered a health care plan with optional family coverage.

Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

If Contractor violates this Living Wage provision Contractor shall pay each employee affected the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision may result in termination of this Contract for Cause and subject the Contractor to possible suspension or debarment.

Company Name CSDC Systems, Inc.		
Signature of Officer or Authorized Representative	Title	Date
	Managing Director, Courts & Justice	2/7/2012
Type or Print Name Tracy Ownbey		

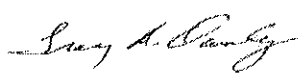
**EXHIBIT F**  
**CITY OF AUSTIN, TEXAS**  
**Living Wages and Benefits Employee Certification**

Contract Number:	Description of Services:
Contractor Name:	

Pursuant to the Living Wages and Benefits provision of the Contract, the Contractor is required to pay to all employees directly assigned to providing Services pursuant to this Contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this Contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee Name	Title
Tracy Ownbey	Managing Director, Courts & Justice
Signature of Employee	Date
	February 7, 2012
Type or Print Name	
Tracy Ownbey	

\_\_\_\_\_  
(Witness Signature)

\_\_\_\_\_  
(Printed Name)

**PURCHASING OFFICE  
CITY OF AUSTIN**

**REQUEST FOR SOLE OR SINGLE SOURCE PROCUREMENT**

**DATE:** 12/20/2011

**TO:** Purchasing Officer or Designee

**FROM:** Rebecca Stark

**NAME:**

**PHONE:** 974-4694

1. Requesting approval for Sole Source or Single Source Procurement of maintenance & support services for the reasons as described in Section 3 herein.
2. This is an annual contract with five (5) extension options for Application Software, Maintenance Support and Consulting Services from CSDC Systems, Inc. CSDC Systems, Inc. acquired PCSS Inc. who was the original developer of the JEMS (Judicial Enforcement Management System) case management application system that the Austin Municipal Court has used since 1994. Total cost of this contract, if all options are exercised, is \$3,159,635 and will extend through January 2018. Tracy Ownbey is the Managing Director, Courts and Justice at CSDC Systems, Inc. and can be reached by phone at: (817) 832-6175

**CSDC Systems, Inc. is the sole provider for maintenance, enhancements and support of the JEMS (Judicial Enforcement Management System) product, an application currently used to manage the City of Austin Municipal Court's Cases since 1994.**

3. Procurement is: (Check only one)

☒ Sole Source (Complete appropriate section A – D)

☐ Single Source (Complete Section E)

This procurement is necessary because:

Sole Source	A.	There is no competitive product. The good/service is a one-of-a-kind or patented product, a copyrighted publication available from only one source or a unique item such as an artwork.
	B.	The product is only available from a regulated or natural monopoly. For example, utilities, gravel from the only gravel pit in the area protected site, territorial/geographical area, or some similar situation.
	C.	The product is a component of an existing system that is only available from one supplier. The replacement of a component or a repair part may only be available from the original supplier. <b><u>The City of Austin Municipal Court's case management application is called JEMS, a product of CSDC Systems, Inc. This software is proprietary and wholly owned by CSDC. Enhancements, Maintenance and Support are essential to managing and maintaining the Court's case load in support of the Judiciary and our customers. CSDC Systems, Inc. is the Sole Source provider for these services.</u></b>
	D.	<b><u>Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.</u></b>
Single	E.	A Single Source is the one source among others in a competitive marketplace which for specific justifiable reasons has predominant qualifications for selection for contract award. <b>Detail Explanation:</b>

4.

I certify that a Sole Source or Single Source Procurement exists. Over \$5,000 forward to the Purchasing Office.

*init*  
*Canally*  
Rebecca Stark Municipal Court Rebecca Stark 12-21-11  
Director (printed) Department Signature Date  
Rebecca Stark FAO [Signature] 12-28-11  
ACM Name (printed) Signature Date  
(Only if over \$50,000) [Signature]

Purchasing Office (Over \$5,000):	
_____ Concur	_____ Do Not Concur
_____	
_____	
<u>[Signature]</u> Purchasing Officer or Designee	_____ Date

December 19, 2011

Ken Clonts  
Municipal Court IT Manager  
Austin Municipal Court  
Austin, TX

**CSDC Systems Inc.**  
6300 Ridglea Place  
Suite 1104  
Fort Worth, TX 76116  
Tel: 1 888 661 1933  
Fax: 1 877 661 6175

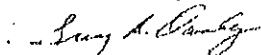
Sole Source Provider of JEMS Software Licensing, training, maintenance, etc.

Dear Mr Clonts:

CSDC Systems, Inc. is the sole source developer and licensor of the JEMS Case Management System that is currently installed in the Austin Municipal Court. CSDC is the only provider of its entire set of software, optional modules, training, enhancements, maintenance and support.

If you have any questions, please feel free to contact me directly.

Thank you,



Tracy A. Ownbey  
Managing Director, Courts and Justice  
CSDC Systems, Inc.  
[t.ownbey@csdcsystems.com](mailto:t.ownbey@csdcsystems.com)  
(817) 832-6175